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GALC COMMISSION MEETING MINUTES
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning
Wednesday May 24, 2017 | 2:15pm to 4:50pm

I. CALL TO ORDER

Meeting was called to order at 2:15pm by Chairman Anthony Ada

Chairman Anthony Ada: In Compliance with public law 24-109, Guam Ancestral Lands Commission published the public meeting announcement on Wednesday, May 17, 2017 and Monday, May 22, 2017 in the Guam Daily Post.

II. Roll Call

Present were Chairman Anthony Ada, Vice-Chairman, Ronald T. Laguaña, Secretary/Treasurer, Maria Cruz, Commissioner Ronald Eclavea, Commissioner Anita F. Orlino, Commissioner Antonio Sablan, Commissioner Louisa M. Wessling, Director Michael Borja, Deputy Director David Camacho, Land Administrator Margarita Borja, Karen Charfauros, Land Agent, Nicolas Toft, Attorney.

Chairman Anthony Ada: This meeting is called to.

III. Approval of Minutes

Chairman Anthony Ada: there are no minutes. Earlier, there were discussing a change in the order?

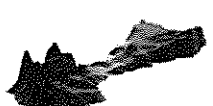
Commissioner Maria Cruz: the deputy is asking to move new business first, Guam power Authority.

Chairman Anthony Ada: okay so we are going to start with item number five, new business, Guam power Authority.

Vice chair Ronald Laguaña: you need to make a motion to amend the agenda.

Chairman Anthony Ada: okay, there is a motion to amend the agenda by Commissioner Laguaña, do I hear a second?

Commissioner Louisa Wessling: I second.



Chairman Anthony Ada: all those in favor say Aye?

All commissioners: Aye!

Chairman Anthony Ada: motion passes. Motion carries, so new business first Guam power Authority. For the recording can you go ahead and identify yourselves please?

Commissioner Maria Cruz: all those who are making presentation please rise?

Chairman Anthony Ada: you don't need to do that because they initiated the conversation. When you start to speak please identify yourselves for the recording.

Mr. John Benavente: my name is John Benavente, the general manager for the Guam Power Authority. With me today is Graham Botha, our legal counsel, John Kim, our CFO, John Cruz, our manager for engineering and technical services, Beatrice Limtiaco, assistant general manager for administration. (Translated from Chamorro) I want to express my gratitude for the opportunity given to me today to speak to you all I will do the presentation in English. GPA is here to request the purchase of 40 acres of Lot 10190 – R1 from the Guam ancestral land commission for a new one 80 MW power plant on the next page for Sir, why build a new 180 MW plant? Our existing Cabras 132 MW baseload plan is over 42 years old and by the time we get this new plant up and going it will be 46 years old. Most of other generating units are over 20 years old. GPA's baseload units burn residual fuel oil and are non-compliant with recent USEPA regulations, and when I say recent in the past 4 to 5 years. GPA is currently subject to potentially over 150 million in penalties with recent USEPA regulations in January 2015 which basically says that we will build our new power plant and we will retire Cabras one and two and also retire Cabras three and four. Cabras three and four, is the one you know that has an explosion so we can technically say it is heading towards retirement but for us to comply with the new regulations we have to build a new power plant. GPA lacks the adequate baseload units to meet future demands, we are running a lot of emergency standby units at this point to meet the baseload demands baseload we lost was 80 MW to sustain the needs on a regular basis. Baseload units do not work well with intermittent renewables such as solar PV and wind. GPA anticipates contracting over 150 MW of renewables over the next five years as a hedge against increasing fuel cost. We have renewables today and every time the clouds come by the production drops and when the clouds pass production will go up the machines we have today are made to run like this and not like this, we are having challenges with this but we are keeping the power on but there are challenges though.

Chairman Anthony Ada: can I stop you? The renewables that you are planning to put in are they the state-of-the-art?

Mr. John Benavente: this is the new 80 MW conventional unit but the renewables are in the future are something in addition to this one but the renewables are state-of-the-art solar PV, solar panels that are like in a farm they are utilizing now energy storage batteries if the system comes in it moves.

Chairman Anthony Ada: I know you're here to talk about this system but maybe this is something we need to clarify, I heard that there are new solar technology where the clouds don't bother it uses ultraviolet lights, the light comes right through it, it doesn't matter if there is a cloud or not.

Mr. John Benavente: well those renewables are not the one the utilities are putting out and neither are the vendors bringing it forward. Maybe they are the newer ones and they have not been..... what we ask is that they put this in the battery for the reason of not doing this and they come back and say no, we don't need battery because our system goes like this

Chairman Anthony Ada: batteries are storage, I just wanted to bring it up, I heard that the solar technology now are not affected by the clouds because it's a different wavelength.

Mr. John Benavente: maybe the future bids will bring that technology forward. The vendors will come in with the best technologies. They owned the PV systems we just by what comes out of it.

Chairman Anthony Ada: yeah, but by the time we install what the vendors have, it becomes obsolete, is just something to think about. Let's just get back onto the presentation.

Mr. John Benavente: okay, so we are putting the renewables in but in addition to that a new power plant. What are our new power plant characteristics: Future power plant to be constructed in compliance with both USEPA and GEPA Regulations. Plant will meet all air, water, noise and other regulations in order to be permitted for operations. Plant to operate on Ultra Low Sulfur Diesel or Natural Gas which are both considered by USEPA as "clean fuel". Why ultra low sulfur or natural gas, fossil fuel oil is very sensitive, and volatile to prices. It's a clean fuel as long as the prices stay down it is what we are going to use when oil starts to get at \$60 a barrel that's when we plan to bring in natural gas, natural gas now is not as volatile at \$60 a barrel it becomes economic sense, we can switch between gas and oil depending on what is necessary from the conventional standpoint. New technology is much simpler than the existing baseload ones which would result in higher reliability and safer operations. What you see down there at Cabras one and two, three and four, they were the technology of the time it's actually quite complex and complicated. The type of technology we are talking about combined cycles it's almost like the airplane engines it's a gas turbine it utilizes the waves hit and makes more energy and it basically comes out very efficient or it could be very efficient medium speed diesel units that hit recovery systems that provide us we are looking for efficiencies upward in what we call 45% it may not mean much, it's a technical term but really it is a lot more efficient than what we have today so the plan is to bring in new technology much more efficient so we can burn less fuel for the island, and then again, less fuel means less costs. The plan to be substantially more efficient will save us 11 million gallons a year that's oil that we don't bring in, that's money that we do not spend, it stays in the island, and it multiplies here in the island. Oil comes in here, we give out the money, and that's it, there is no multiplication in the island per se. Dual fuel capability would result in relatively stable rates because GPA would no longer be only tied into the very unstable fuel oil market. On the next page, will give you all the different components of the power plant, and then again this is just the early-stage we have our consultant that continuously puts in these things together, we have a general spec and then we go out to the market and then the vendors will come in with different types of generators that will meet those different specifications and pricing is the second issue.

Chairman Anthony Ada: the units that you are bringing in our 45% efficient?

Mr. John Benavente: yes, sir. Turbo efficient.

Chairman Anthony Ada: what about the ones that we have now?

Mr. John Benavente: for example, the one that we just retired, the Tangissan power plant, that was 28%.

Chairman Anthony Ada: okay.

Mr. John Benavente: the Cabras one and 34% in the best of times now, it is somewhere around 32. The most efficient that we have right now is NEC eight and nine which is about 40%. Cabras three and four which had the explosion was about 39%, so this one will be more efficient. A minimum of 45% this is where the market will bring in a combination. The next page, page 5.

Chairman Anthony Ada: you're here for the property and that's a picture of a map I am curious, where is this?

Mr. John Benavente: if what won't upset you, chairman, let me continue with the presentation I will get to that soon.

Chairman Anthony Ada: okay.

Mr. John Benavente: on page 5, we have different visuals, it could look like this, or it can look like the one on page 6, indoors type, they can also make it more modular. When we retired Cabras three and four because of the explosion they may make these more modular we are preparing these and now they are preparing the specification it really is just to show you the ideas of the planning because these are 25 to 30 years old. We now move on to page 7, why a new plant in Ukudu. Excuse me, but that area is called Ukudu right? Because I often refer to it as Harmon.

Chairman Anthony Ada: yes. I think the whole area is called Ukudu.

Deputy director David Camacho: it is.

Mr. John Benavente: elevated from potential tsunami and storm surges; currently all baseload units susceptible to these credible threats. We have to be thinking and planning these things if we are going to build for the next 30 years or whatever, so whatever problems we may have we will have power. There is not enough room to put any new plants at our current location all of the old plants would eventually have to be demolished first. It's close to the northern district wastewater treatment plant allowing use of graywater for cooling purposes which would reduce demand on the aquifer by over 3 million gallons per day. The sewer water is treated and the greywater is what is used for cooling it's not for everything but it is for non-potable use we use that for the cooling system on the generator that gets away from the issue of deep-sea water cooling which EPA is now regulating, the cooling towers would use this water for the generators. 3 million gallons a day would come from the aquifer if we are not using the wastewater. it's close to major substation and load centers thereby improving reliability and reducing line losses in Agat and Harmon and the area across the Micronesia Mall they are main substation centers they're going to tie this in going inward right into the load down to Tumon on to Tamuning to Macheche. The plant to directly tie-in to major underground transmission lines providing for potential operations through typhoons and for quick recoveries after storms. From the Harmon substation right across the Micronesia Mall there is already an underground line that goes all the way to Tamuning to Tumon, all the way down to Tamuning. From that substation there's an underground line that goes all the way up to the airport and goes to Macheche one line goes all the way down to the hospital so the power plant there will feed right up to the substation so immediately after a storm

you don't have to go fix any lines we can just start the substation put them back online or we can run Tumon and other places during a storm so that way we don't lose revenue and at the same time he goes all the way toward the hospital. Topography is generally flat without wetlands and most public rights of ways available to result in expedient construction. On the next page this just gives you an idea of the current uses and facilities in the Ukudu area there is Ukudu housing, there's an area hear what they were planning to build warehouses, but I will show you the location and a couple more pages Mr. Chairman. Page 9, land requirements, we require a 40 acre minimum of course if you agree with 40 and additional 20 acre option again once we build a power plant there we want to make sure we have enough acreage needed for additional expansion or benefits that could occur in the future and adjacent to or near the northern district waste water treatment plant, no less than 1500 feet away from any school, must have potential to be rezoned for public utility use. Procurement is critical to us by August 2017 to meet scheduled date for issuing the tender for the 180 MW power plant we have our engineering firm already preparing the border plate for the tender by August or so I need to give them the location we have to start to prepare to give out all the bids to different companies that are going to be bidding. GPA is working to meet plant sent to US EPA in order to avoid or minimize penalties. EPA is kind of quiet right now we've given them a plan in 2015 we continue forward to implement the plan and again part of it is the PUC approved the power plant in October of last year so now were looking for the land, we hired an engineering firm, were showing them our specifications, we are showing them we are doing our best to move forward in implementing the plan to bring mom's compliance into EPA regulations. The land procurement effort, GPA issued a land bid in February 2017, we had two offers that were received but neither were in compliance with requirements, one was below minimum acreage required, the other was within 1500 feet from Ukudu high school, so the bids were canceled we are reconsidering going back out to re-bid however, we looked at the map again and we said we should approach the ancestral lands commission. The site that I will show you shortly, is the ideal site for us in our opinion for putting in a new power plant. Our recent discussion with our engineering firm we really need 40 acres for the new power plant, substation, fuel storage and transfer facilities. On the next page, you can see the two lots that came in lot 5315 and that's 37 acres, that's kind of close to Ukudu, and then lot 10188 that came in at 29 acres and in fact it might be lower than that because the right of ways are included in the 29 acres. The Guam ancestral lands commission option, GALC recently approved the sale of 17 acres a portion of Lot 10190 – R1 to DWA for the expansion of the Northern District water waste treatment plant, subsequent legislation authorized the sale and rezone the land for public use, GALC has substantial acreage immediately adjacent to existing and planned expansion of the northern district wastewater treatment plan, which is ideal for the new power plant site. GPA has received CCU authorization to request GALC sees consideration to sell 40+ acres to GPA her process in terms similar arrangement to the 2016 GALC land sale to DWA. I received the authorization last night, I did not want to approach the commissioners until our board gave us the clear. On the next page, the breakdown of the area that we are looking at is the brownish color there which is Lot 10190 – R1 you see the proposed GW a site, to the right is the site that we are looking at is a 40 acre lot and next what you will see the additional 20 acre lot. So Mr. Chairman, that's the area you were asking about earlier what location we were looking at. On page 14, payment/benefit options, it's your choice, and outright purchase at fair market value for in-kind infrastructure. Let's say for example the sale price is 10 million and I think that's within the magnitude of the sale, if we take that 10 million in an in-kind infrastructure we can provide electric power infrastructure at GALC desired locations equivalent to under the following scenario, we can put in a 2000 distribution line whole span, it is a 45 feet pole at 180 feet spacing equivalent to about 40 miles of distribution service with that we could also provide 250 transformer stations and that transformer station can serve a minimum of 2000 customers. So any combination of fair market value and in-kind infrastructure will work if you agree to consider selling us the property

for the use of the power plant. I am not sure that this would be an opportunity for a win-win situation in exchange for the property they're willing to work with you to put in the infrastructure to other ancestral land properties that you want to develop or anything like that. In summary, Mr. Chair, GPA urgently needs the land to build a new power plant which would make it compliant with US CPA, reduce consumption of fuel oil, meet future demand, work well with renewables in order to provide a sustainable future for the island and that will stabilize our way into the future and the cost for the island. Our agreement benefits the community as a whole for the many reasons I noted earlier. The fair market value payment would come in the form of cash or in-kind infrastructure which would help develop other GALC land into revenue generating assets through the availability of utility infrastructure and last but not least we humbly ask the GALC for their consideration and support, si yu'os ma'ase' and I'm ready to take any questions that you may have.

Chairman Anthony Ada: I know that you put in your paper here that you're asking for 40 acres but in this paper 60 acres is optimum right?

Mr. John Benavente: 40 acres is really about what we need we have a little space here and there but, again, trying to think ahead as far as I can having the benefits of that plan maybe at one point we have to supply plan diesel we bring the diesel out there and the trucks take the diesel from there and deliver to the other transportation areas so there some other benefits that could occur, so I'm saying 40 but it never hurts to ask for more to be able to plan for the future.

Chairman Anthony Ada: when I saw Hila'an mushroom from offshore ancestral lands recently returned 400 acres to the San Nicolas, did you approach them to sell some of their land?

Mr. John Benavente: we went out on the bid process and we opened it up to everyone.

Commissioner Ronald Ecklavea: that land was sold already.

Chairman Anthony Ada: Lot 10190 has no ancestral landowner?

Deputy Director David Camacho: just to give you guys a heads up, there's a claimant to that property and as you remember these individuals have been coming in front of the board testifying that this estate belongs to them and that's one thing that could hamper the process.

Vice Chair Ronald Lagaña: is that the Pangelinan and family?

Deputy Director David Camacho: yes, there is a map on that already (inaudible).

Commissioner Maria Cruz: thus a part of the disputed area the Pangelinan, it hasn't been resolved and they have been trying to resolve that for a while.

Chairman Anthony Ada: which Pangelinan?

(Inaudible)

Deputy Director David Camacho: it's a part of the judge Unpingco family.

Chairman Anthony Ada: but that is a little further up?

Deputy Director David Camacho: now they're claiming a portion of that lot what stopped it was when they approached land management they went in for land registration I heard that they pulled it out in court and they are pursuing the issue in front of ancestral.

Chairman Anthony Ada: that's between the family now right?

Deputy Director David Camacho: Our surveyor already identified where the boundary lines are however they're saying there's an additional 50 acreage that belongs to them.

Commissioner Maria Cruz: so what's the status? Is it the land surveyor that needs to finalize it?

Deputy Director David Camacho: well, just need to wait for waterworks to finish their survey they are doing the survey on the basic lot itself. And I'm not sure if these people contests that or what but they are on the verge of surveying out the basic lot cutting out what waterworks purchased from ancestral.

Commissioner Maria Cruz: so that will resolve this?

Deputy Director David Camacho: hopefully, this will result issue between the Pangelinan and us.

Chairman Anthony Ada: What is that restriction that you can be 1500 feet of a school?

Mr. John Benavente: It is a public law that states that.

Chairman Anthony Ada: is it a public law because of the generator and it makes too much noise? Are generators running more quiet now.

Mr. John Benavente: I stand corrected Mr. Chair, my understanding from this is after hamburger Road after the swimming pool there is a power plant there, Macheche next to it is Guerrero, subsequent to that that law came in, the plant was burning sulfur before it was burning diesel but now it's burning ultra low sulfur diesel.

Chairman Anthony Ada: that's what I was driving at, maybe the law is obsolete.

Vice Chair Ronald Laguaña: And what is that one in front of JFK?

Mr. John Benavente: It's a substation, there is no power plant it receives power from Harmon it's an underground line that takes power over to the substation where it is distributed outward to the industrial park.

Commissioner Ronald Ecklavea: so the property are looking that is all GALC property?

Mr. John Benavente: yes, according to our engineering real estate. We didn't put that sliver there to show the rights-of-way we have to keep it from being landlocked.

Chairman Anthony Ada: you also mentioned that it would benefit the community, this is mostly northern right? The southern is not yet on the radar?

Mr. John Benavente: no, going to benefit everywhere. The power plant being here and surveying the dense loads reduces the light loads, the line losses is what everybody pays for so the lower the line losses the lower to the customers. In terms of the southern area a lot of the renewables we already have a 25 MW there we are looking anywhere between 30 and 60 were looking at about June 6 to make a decision on what we are going to bail a warning but that's also renewables coming from the south to come up north because most of the loans are in the North.

Chairman Anthony Ada: our mandate here is to take the properties and make it make money to produce money for the dispossessed landowners mostly for the ones who are most likely not going to get their land back so as our inventory of assets go down it creates a worst situation for the landowners that need to be compensated so that's what I want to balance out with what we are thinking here. I mean, we didn't discuss it because this is the first time were hearing it but it looks to me like you guys did a lot of work before coming over here.

Mr. John Benavente: it came to us last week to work with a two prong attack if you will it came up again which is more ideal for us that's why we are saying that maybe it could be a win-win scenario for both because if you're looking at other areas to develop this might be an opportunity. Let us work with you, there are other benefits with us putting in the infrastructure for you if customers hook up they can get some kind of credit with the infrastructure already there.

Commissioner Ronald Ecklavea: in responding to our directors information about the litigation that's going on I am not sure if they actually filed it yet in court but is there an option for lease? Because that I'm thinking is with the litigation and the other the other party prevails they could just take over the lease as oppose to the money going into our trust account we would have a different issue trying to get that money back out it satisfies our mandate to develop these properties for the trust.

Mr. John Benavente the issue with the lease is we are a perpetual company if you will. Once we put in that infrastructure some of that infrastructure will be here for a long time they are not wooden poles anymore the power plant may change in another 30 years or 40 years from now the power plant my change out.

Commissioner Ronald Ecklavea: that also brings up Tangissan it is actually unusable now right? If you did a long-term lease on that the life of that that practically leaves it unusable.

Mr. John Benavente: actually, the plan Tangissan is to go through a process for decommissioning it's going to take several years to decommission the plant.

Commissioner Ronald Ecklavea: so it leaves it unusable right?

Mr. John Benavente: the next plan for Tangissan is we plan is called deep sea air conditioning we go out 2 miles we go down 1800 feet draw up 40° water that 40° water can head towards the hotel and cool air conditioning and end up at Navy NCS and Marine base and provide air conditioning so that's what the what the plan is for that site.

Commissioner Ronald Ecklavea: basically, this is in line with what the director mentioned earlier the fact that there is a family trying to claim the whole thing, the board here is saying to be careful but could we still move forward, does our legal counsel.....

Attorney Nicolas Toft: I think we want to either do something subject to analysis the Pangelinan family claim or table for two weeks until we can get a presentation on exactly how much the claim is affected does it cut into the 40 acres for the additional 20 acres that they are requesting.

Commissioner Ronald Ecklavea: I see, so were not sure director, is it the whole thing? We need to clarify just how much.

Deputy Director David Camacho: I think it went all the way down to land registration in which it's up to the court to prove that it belongs to them and we are going to contest that because we know for a fact it belongs to ancestral.

Chairman Anthony Ada: this comes as a surprise to me I thought Unpingco was settled already.

Commissioner Ronald Ecklavea: no, they never came back, they came in and kept contesting and contesting but they never accepted what we had it was just idle, it was never settled.

Commissioner Maria Cruz: (inaudible).

Commissioner Ronald Ecklavea: remember, we challenge the surveyor.

Commissioner Antonio Sablan: you answered my question was what are you going to do with the Tangissan area to put in cold water aspects to generate air conditioning purposes. To my understanding, Tangissan is pretty contaminated?

Mr. John Benavente: no. There was an issue before where we had a fuel oil leak and that was about 20 years or so ago and we have been cleaning up that oil so much to the point that Guam EPA and the US EPA told us to stop pumping because we have been bringing up water, and taking the oil out and now were we are only bringing up water a lesson learned from that particular plan is that we have a two storage tank here and a power plant here and we had an underground line between the plant and so when the leak occurred it took a while for us to figure out that there was a major leak and where it was going because it was going down into caverns instead of coming up. So the lesson learned is that it will just be a trench so that if there is any leak it will be contained within the berm. As far as that plant there is some asbestos in there and will be cleaned up we will decommission it we will have somebody salvage the metal there's a lot of metal there but it will eventually be cleaned up.

Commissioner Antonio Sablan: will the contaminants be in this new site?

Mr. John Benavente: What was the question, sir?

Commissioner Antonio Sablan: how severe will the contaminants be in this new site?

Mr. John Benavente: not severe at all because number one, were not talking about asbestos anymore being put out in the market, number two, there'll be a fuel oil berms tanks so that if there is a rupture, although we have not had a rupture in fuel tanks there is leaks or whatever it's contained within the berm as far as anything else and maybe I should never say never but from what I can see it is less technical not like Cabras power plant I mean if you go into that power plant you see so many auxiliaries and so many lines this is a much more simpler power plant it is all so similar to the Dededu power plant in some respect with just a little bit more steam turbine.

and all that it's a modular. And as far as the location we hope to be a good neighbor and that we blend in with the environment.

Commissioner Antonio Sablan: you did mention that you made a request for proposal and you had two parties respond obviously you then went to the drawing board and you examined the properties you wanted there are a lot of properties in Guam why did you pick on ancestral lands?

Mr. John Benavente: because it is right next to the wastewater treatment plant the synergies are such that we could take the wastewater for cooling and that save us about 3 million gallons a day. Secondly, the wastewater treatment plant is more industrial so we fit better, third, having all the same type of facilities in one area it's a little bit towards the end of the island and it is more away from everybody else, also, in that area in the worst case situation if there was a leak most of the water goes out toward the edge of the island so it would not be going in per se into the aquifer but then again that is under the really worst-case condition but we will do everything possible to make sure that there will be no leaks.

Commissioner Antonio Sablan: it is not okay for the fish to be killed.

Mr. John Benavente: no, our priorities are the protection of our drinking water and secondly, the protection of our ocean so everything we do has to be environmentally compliant and we have to make sure we do not have any environmental issues even the pipelines that are going to come across the island that will be coming up to service the power we need the diesel fuel to come all the way from Cabras there's going to be a 15 mile pipeline that we are going to have to put if we go with natural gas we will have to do the same we are going to have to put in a pipeline at the same time to make it happen.

Commissioner Antonio Sablan: in sounding out what Mr. Chairman Ada saying that our prime responsibility to the ancestral lands commission and that is to have these properties in the inventory for highest and best use to be leased out to potential users and what you are proposing here is reducing our inventory and that to me is not acceptable at all so if we are talking about leasehold I will support that but I will not support an outright sale.

Deputy Director David Camacho: I would like to respond to that, under the public law ancestral lands has the authority to sell or exchange land to include the best and highest use and I believe the Commissioner understands that.

Commissioner Antonio Sablan: yes, I do understand that. We are in a prime area in that location and you also hypothetically mentioned a price tag of 10 million under my calculation that brings up a 60,000 hundred by hundred home is what the price will be on a hotel zone you gotta be talking about a larger figure to be compensating us.

Mr. John Benavente: and again I really wasn't throwing out a number I know that 10 million is a number that you can expect or whatever the fair market value will be what I wanted to do was take that number and slated in for infrastructure so that perhaps if you take a look around at all your other assets what can you do was an in-kind arrangement and what we are saying is we could put this where you really want which do you want developed, and help you increase the value of the your properties because infrastructure adds value to whatever properties you are trying to develop, or sell. We are actually acting now with this piece of property as a buffer to the wastewater treatment plant so if you ask me as a personal opinion which would I purchase for a piece of property next to the power plant are next to the treatment plant I think I would prefer a

power plant with a buffer zone. The wastewater treatment plan makes it compatible and it adds value to the property that is there the infrastructures are there and just within a stone throw away of that major piece of crown land.

Commissioner Antonio Sablan: May I bring your attention to one of the pictures you showed us, the vicinity map looking at page 8 one thing I notice is I think Mariana Stone is a company that's up there quarrying rocks right around the ground level.

Mr. John Benavente: here?

Commissioner Antonio Sablan: right around the very top and center.

Mr. John Benavente: it could be a quarry actually it's further up (inaudible).

Commissioner Antonio Sablan: is just something to consider that this has high-value and those are the things that I take into consideration.

Commissioner Maria Cruz: incline instead of having the providing power in one of these facilities can it be constructing buildings on our properties? Is that possible?

Mr. John Benavente: I think we can do that, you tell us what you want to do with the settlement in-kind can be our offering infrastructure or it could be what you would like us to do part of that is when you've given up this piece of property you have an asset that you can work with and so then again we could do something like that.

Vice Chair Ronald Laguaña: I have several questions, have you exhausted all efforts to seek properties out on the market within this area? Because John, all I hear is that you guys are building infrastructure and the bottom line is we the taxpayers are the ones who are paying for this the power rate you know typical layman's terms I hear things like renewable but all I see is you guys keep getting bigger and bigger and the people are the ones who are paying for that we have to pay an additional increase, you guys continue to increase rates why don't you work for the people there are other available properties within this map that you could tap into actually we just lost a \$20 million property within this area right? And maybe you could market with those guys because our inventory is running dry so, have you exhausted all your efforts within this area?

Mr. John Benavente: Mr. Laguaña, what we can do is go out and open up to bid, and we have already done that the next phases we are going to try and rebid but we looked at the potential of this area that's why we are here today I got permission to come and ask the commission if there could be a partnership in working this out and because I think it is really ideal for us maybe not ideal for yourselves for many of the reasons I mentioned earlier. As far as the power rates and all of that maybe I can say it this way and our chairman mentioned this last night we are responsible for bringing vehicles the bus the energy for bringing people to work but when we need fuel to run to the gas station to get the fuel gas station keeps going up or down we have no control over that once we are at the pump so what we are presenting is just the fuel we don't make money you don't see any of that being spent on the land that we are talking about personnel or anything like that it is all related to fuel that's why it is levelized every two years, because fuel can go up and down now fuel just came down in November 2015 recall it went down from \$0.16-\$0.18 per kilowatt hour all the way to eight we held it for two years and even though we were losing and not recovering the money then it started to creep up then we started mitigating it a little bit at a time

upwards so hopefully it stabilizes our plan is, that's why were talking about natural gas and how to hedge that our plan is to put in renewals because if we take 20% of our energies from renewables we have before us to bids at 8 ½ and 6 ½ that's 20% of our total fuel costs that is now hedged way into the future I am sorry I can't do much about today but I can help in getting our rates to stabilize.

Vice Chair Ronald Laguaña: just a comment, fuel goes up and all I see is your infrastructure going up as well, John, you have worked there for a long time why don't you do something that will benefit the customers always seen since you've been managing that for over 20 years the rates keep going up fuel goes up but I notice you infrastructure goes up to.

Mr. John Benavente: what infrastructure?

Vice Chair Ronald Laguaña: the building that just went up in Mangilao and by the way what is going on in the back of that place? I think they're digging a coral pit in the back part.

Mr. John Benavente: it has nothing to do with us, I wonder myself, what I heard recently what is there mining the coral and sending it somewhere but I don't know it's what I heard. As far as that building is concern, Mr. Laguaña, we were paying 600 to 700,000 a year for that building for as long as I have been general manager in 1987. In 1993 that's when I asked the governor to reserve that property for a GPA building so that we can build something and not be renting nothing happened for a long, long time so in 2003 I came back and then we started planning to build a building but that new building is not only power includes water we were renting at the DNA building that is again rent that is avoided and everyone is in that building so were not driving from Tumon and Hagatna everybody is just meeting in the building there's a lot of benefits to it again, not to try and work backwards just to explain I will rationale as to why you're doing that this is a new building. If I build a new building that looks like a a square box and spend the several hundred thousand the question might be why you building such as building? We built a building that will be there for 15 years, we are maintaining it, we are saving rent and it will be a savings to the customer that's the point for all of its.

Chairman Anthony Ada: I think what Mr. Laguaña is trying to say is it doesn't translate into the envelope we open every month.

Mr. John Benavente: what we are doing is trying to provide rebates for example in air conditioning, if you change from the older ones to the really high seers we are trying to provide more things like that to the customer and we are not done yet, we still have more work to do, so I take your words Mr. Laguaña and I know that we have more work to do.

Chairman Anthony Ada: it is mentioned in here your appraisals will not be at the hotel zone I mentioned to you earlier that the San Nicolas estate got 400 acres and Commissioner Ecklavea says that he thinks they've been sold.

Commissioner Ronald Ecklavea: yes, about a year and ½ ago.

Chairman Anthony Ada: that's a huge power plant that's going to be there even if it's low sulfur burning it's remote and it is far from others and that area has already been marked as the next Tumon Bay and the original landowners are pushing hard to get those lands returned to them and they turn around and they sell it and we don't know who they are so whoever bought it plans to develop that property they might not like a power plant there because it'll be in their front yard.

Mr. John Benavente: you also cannot have any new development without infrastructure and right now all I'm saying is that a 46-year-old machine we recently bought back another four years to complete building this new power plant otherwise it is going to become very difficult to keep up with the demands we don't want to get there and I don't mean that as a threat I'm just saying that that is the reality.

Commissioner Ronald Ecklavea: also, a new wastewater treatment plant really hampers development in that area because of the smell and just the fact.

Chairman Anthony Ada: that's the wastewater the treatment plant is across the street. That's the graywater you going to used to cool down the generators?

Mr. John Benavente: that will be sewer water that will be treated to graywater that will be used to cool the generator

Commissioner Ronald Ecklavea: The waste treatment plant the whole facility there is affected by that waste treatment plant.

Deputy Director David Camacho: for your information, part of the San Nicolas property that was sold, in between is 50 acres of historical property that is under Parks and Recreation.

Chairman Anthony Ada: I thought that was down below the cliff?

Deputy Director David Camacho: well, that's part of the San Nicolas property we had a meeting with Parks and Recs they were asking for an additional acres for down toward the beach which the governor did not approve but there is 50 acres of historical property.

Chairman Anthony Ada: You mentioned there was 400 that was sold the total amount was 450.

Deputy Director David Camacho: Right in the Lost Pond area.

Vice chair Ronald Laguaña: Hi'la'an.

Commissioner Ronald Ecklavea: if I may add, it was the board that had to agree, there was a sunset clause in that, do you remember? We had to agree to accept the terms from the federal government to preserve those properties if we didn't they had a reversionary clause so we accepted the deed and we followed the stipulation.

Deputy Director David Camacho: it was released with the stipulation the 50 acres is strictly for.....

Chairman Anthony Ada: that was not our job that was between Historic Preservation and the federal Historic Preservation that was Linda Aguon.

Commissioner Ronald Ecklavea: they signed that with ancestral lands that we had to preserve, to put in a mechanism.

Vice Chair Ronald Laguaña: John, it's not for a particular reason but are you guys involved with the military? That's a critical area, route 3, is this in conjunction with the military buildup?

Mr. John Benavente: no, this is in conjunction with GPA's plans.

Vice chair Ronald Laguaña: will you be providing power to the military by any chance?

Mr. John Benavente: we provide power to all in the island. The military is 18 to 20% of the customers.

Chairman Anthony Ada: The renewable energy that is coming out in the news where is that in South Finegayan? Is it in the old housing? The old side where the houses were taken down and the coconut trees were killed by the rhino beetle.

(Inaudible)

Chairman Anthony Ada: okay so that's where that is.

Mr. John Benavente: and parts of it are on the military base by the wastewater treatment and the old commissary we already have some renewables there.

Commissioner Ronald Ecklavea: regarding the combined cycle how realistic is the natural gas on the infrastructure is going to be a bused up there are trucked up there? You have infrastructures to bring that in?

Mr. John Benavente: pipeline.

Commissioner Ronald Ecklavea: do you have plans in place for a new pipeline?

Mr. John Benavente: our plan includes a new pipeline all the way from commercial port to (inaudible) a pipeline for diesel and a pipeline for natural gas.

Commissioner Ronald Ecklavea: and you have the plan set in place for that?

Mr. John Benavente: yes we are working on that we are preparing all the specs for bid.

Commissioner Ronald Ecklavea: is that a nightmare?

Mr. John Benavente: no, our engineers are working on that. Is it a nightmare? We don't know what to expect but there's a way to fix it. It is not unusual to bring the fuel since 1975 Mr. ecklavea, we have been bringing in oil from there all the way to Tangissan there is an existing pipeline right now.

Chairman Anthony Ada: I'm going to summarize, the 1500 feet restriction in the public law what is the public law?

Mr. John Benavente: we will have to pull it out for you.

Mr. Graham Botha : It's under the zoning once Commissioner but I'll get you one.

Chairman Anthony Ada: you want 40 acres up to 60 acres that particular lot has a claim of interest on it I'm sorry I thought that family was settled already it's not a hotel that you're going to be building but it will be appraised as a hotel zone.

Mr. John Benavente: it is whatever GWA is doing as an appraisal is what we will do also.

Chairman Anthony Ada: I guess the land use commission will have to get involved with that.

Commissioner Antonio Sablan: isn't it currently zoned hotel?

Chairman Anthony Ada: that was the Amantes area when Swavely had this dream to turn it into the next Tumon it was supposed to be all hotel zone in that area but that's a clarification.

Mr. John Benavente: what we are proposing is similar to what GWA is proposing I may stand corrected on the H1 status.

(Inaudible).

Chairman Anthony Ada: the in-kind that Commissioner Cruz pointed out in terms of power poles and lines but she was asking if it could be a building?

Mr. John Benavente: yes and I believe we can do that is just a matter of transferring the value of that toward a the amount of the total.

Commissioner Antonio Sablan: what is in-kind? We could build our own.

Chairman Anthony Ada: in-kind, you give me one banana I give you 10 coconuts.

Commissioner Maria Cruz: the same value, value for value.

(Inaudible).

Chairman Anthony Ada: to lease, you are staying away from that plan because your plan will outlive the lease.

Mr. John Benavente: again, what is a lease? We are a perpetual company and we should also own, were getting away from renting and leasing other areas, so that at some point that way the company owns it and has no additional cost.

Chairman Anthony Ada: the thing that comes to mind about what Commissioner Cruz says I've seen this happen the bank of Hawaii and what they've done in the islands. They find a piece of property where they want to build a bank they find the landowner they apply to the bank to build a building there, you build it according to our design and then we turn around and we rented from you but I'm not giving you rent it's offsetting toward the building when that thing is done the building belongs to the land owner if we did something like that up there that's just an idea.

Commissioner Maria Cruz: so Mr. Benavente, you're going to follow the plan the process like PUAG where you really need a legislative approval because we cannot sell land so then we will discuss the fair market value and in that process we will select the appraisers.

Chairman Anthony Ada: yeah, but we are not there yet.

Mr. John Benavente: not to be presumptuous, but we have discussed this with our board and if you say yes to the process and you agree to it we can then seek it to take it to the legislature and seek their assistance in getting it done but we haven't done that.

Chairman Anthony Ada: who is your board chair?

Mr. John Benavente: chairman Joseph Duenas.

Chairman Anthony Ada: so he knows what's going on.

Mr. John Benavente: we brought it up to them, and then we said we need a commission decision that's why we come here to ask you we wouldn't do that without any authority so we did that last night again, were not trying to be presumptuous, we just want to be able to negotiate and work with you so far and if it's a dead road then so be it at least we tried.

Chairman Anthony Ada: I am puzzled, they just said okay to this last night? But I heard you guys wanted to meet with us last week or the week before.

Mr. John Benavente: yeah, because the meeting was only last night but we had to do all this preparation so the interest in being expedient and timely and that's why we are asking to be here and then again I ask for your apology I was thinking that they would approve our request and that's why I want to thank you for inserting us into your agenda.

Commissioner Louisa Wessling: Mr. Benavente, is leasing totally impossible? Or not to be considered at all?

Mr. John Benavente: I need to talk to our team a little bit more I mean never say never I just need to discuss that a little bit further we have not broached that we've always just talked about purchasing.

Commissioner Louisa Wessling: I understand, the rationale behind that but as the board and several of the members have already expressed what our responsibilities are and I just want to clarify if leasing was totally out of the question or can it still be possible?

Mr. John Benavente: we just need to discuss it and I can get back to you shortly.

Chairman Anthony Ada: any more questions? Okay Mr. Benavente, there are few things that we need to clear up on our side and if you could point me to the right zoning law.

Mr. John Benavente: thank you very much.

Chairman Anthony Ada: we need to take a short break.

IV OLD BUSINESS – RULES AND REGULATIONS

Chairman Anthony Ada: this meeting is called back to order. The next item on the agenda is the rules and regulations. The last time we talked about this we created a workgroup that was

supposed to meet wait a minute back it up, that was for the MOU. The last time we looked at this there was a letter written by assistant AG Kristin Finney about the rules and regulations the the board proposed things beyond what the board is allowed to do and there are two items in the code that conflict with each other the question now are the terms "extinguishment" and "just compensation".

Commissioner Maria Cruz: the way we approve the draft it did not addressed just compensation it just deleted it all together simply because of the method of compensating the claimant is not the way the legislature defined just compensation we instead did a ratio of ratio based on the area and based on the amount to be compensated until such time that these properties have been released there is a perpetual compensation if it is never released so that is a part of what I recall and that.

Chairman Anthony Ada: I have a copy of the memo in front of me and we all got copies via email the number one item that was put out is the economic impact statement it needs to be prepared, the draft rules contradict the mandates of the land bank, the statutory definition of land bank beneficiary is ambiguous, statutory guidance is insufficient to govern distribution of land bank funds, and the conclusion here by attorney Finney is because draft rules lack an economic impact statement, because they impermissibly contradict existing statutes, and because the lack of statutory guidance is an excessive delegation of legislative power, the rules are being returned for further action by the commission and are not approved as to form or legality. Does that refresh everybody's memory? One by one, the economic impact statement that is supposed to be prepared by?

Commissioner Maria Cruz: I believe the director was supposed to assign that to BMR? Am I correct in the agency, and if I recall he was going to make a follow-up.

Karen Charfauros: yes, that is correct he said that at the last meeting.

Chairman Anthony Ada: yes, Dir. Borja was supposed to follow up on that but I believe he is on jury duty is that correct? Did he already communicate with, what department did you say?

Karen Charfauros: the BBMR, I believe he checked with BBMR.

Chairman Anthony Ada: Bureau of budget and management research? The director changed so we just need to find out from director Borja if he submitted a request to them.

Commissioner Antonio Sablan: does the deputy director do you have any idea?

Deputy Director David Camacho: no, we are still waiting for response.

Chairman Anthony Ada: but they are already asked be BBMR?

Deputy Director David Camacho: yes, I believe so.

Commissioner Maria Cruz: Mr. Chairman, it looks like we have to go back to the drawing board and start over, not start over, but there are two changes that need to be addressed are the just compensation and the definition of a beneficiary.

Chairman Anthony Ada: and there's one more, the word extinguishment.

Commissioner Maria Cruz: well, that's in line with just compensation.

Chairman Anthony Ada: but if you recall my version, well everybody has their version of extinguishment, but the majority rules that extinguishment occurs only when the land is returned so if you read into that I think that's what attorney Finney was implying. There are some lands that will never come back so the beneficiary will continue to receive money for ever and ever.

Commissioner Maria Cruz: well, that's just wrong the first draft that was approved I can get it out for my computer compensation was only going to occur to families whose properties were released from the federal but kept by the government it's construed to mean local government.

Chairman Anthony Ada: we have had this discussion before.

Commissioner Maria Cruz: yes, and I've always losing.

Chairman Anthony Ada: that's your position but if you look at the public law there are two classes of **dispossessed landowners**: one, they lost their land and their land has been returned the other is they lost their land and they may never get their land returned and it's the intent of the legislature to address both classes. When you read the legislative intent yeah you are shaking your head but that's what's in the law. So extinguishment, you see I think the idea was to compensate the landowners and if they got their land that was the best deal you got compensated in the first taken, you got compensated in the John Bohn and then you got your land back that's the sweetest deal right to occur but it won't occur for others whose lands are being held by the federal government. Let's read it the other way the ancestral lands says to take care both dispossessed landowners if you know that Anderson Air Force Base will never come back you are basically telling those ancestral landowners you're out of luck.

Commissioner Maria Cruz: they are not getting compensated because it was not returned to GovGuam and that's what my position still is.

Chairman Anthony Ada: well, with the property be returned?

Commissioner Maria Cruz: that addresses future claims that's later on in the future more properties are returned so the same process will go some properties will go back to the claimant's and those are the ones that the local government are not going to keep and those that are kept by the government remember that when they are returned go Guam looks at these properties they find out which one they're going to take or is there using it they're going to keep so it addresses future claims. So that's why I feel that that term and there may be confused to a lot of us in the way that it was described. So it addresses future claims.

Chairman Anthony Ada: we are going to need the legislature to clarify that because these properties are never going to come back I don't see the Guam international Airport ever coming back to the original landowners so basically what we are saying to them is just get away we are not going to look or talk to you.

Commissioner Maria Cruz: that's fine it's not returned back to the government of Guam why are we going to compensate the families whose not..... the local government didn't take it it was the federal.

Commissioner Anita Orlino: when you are mentioning about the airport it went directly from the federal government to the..... I was just assuring that.

Commissioner Maria Cruz: that was addressed.

Commissioner Anita Orlino: it went directly from the federal to the airport I don't think we can touch that.

Commissioner Antonio Sablan: isn't the purpose of this land bank is to bring justice to the people that were hurt, that were grossly, unjustly, whose properties were taken.

Commissioner Ronald Ecklavea: that's the question, there are different classes and does it pertain..... she has appointed some of the things that she saying. Okay, Anderson was taken by the federal government should the government of Guam be liable to pay the injustice that was done for that? And apparently parts of that law that Tony is reading seems to indicate that was their intent and some people are interpreting it and saying no that's not what it means only with the government of Guam kept, government of Guam should only be liable for properties that they kept from the people.

Commissioner Antonio Sablan: so should we consider the airport to be a part of the government of Guam?

Commissioner Ronald Ecklavea: to me, it belongs to a family I believe they should be compensated also.

Commissioner Antonio Sablan: according to Commissioner Cruz interpretation they would be perpetual recipients for that compensation.

Commissioner Ronald Ecklavea: if you take extinguishment is a factor that we have to meet to try to find some way to evaluate get appraisals for the property because they have the option of coming in and accepting this they don't want to they still have a claim to their property if they want to come in, we got there land appraised somehow, here is a price, you agree to come in, and did agree to come in and accept these payments and then it reaches this amount and then your extinguished, that's the question about extinguishment. Our definition of extinguishment when we gave them the last rules and regulations, extinguishment is when they get their land back and you will receive perpetual payments until you get your land back.

Commissioner Antonio Sablan: to me in my reading the most fair approach is you receive a token price because even with all the land banks that we have, we could never fairly compensate property not to mention other properties that were kept for schools and other places.

Commissioner Ronald Ecklavea: well that some of our interpretation to that you will receive perpetual payments also.

Chairman Anthony Ada: I think what's wrong with that and it was implied in the letter that land has a value and as long as the land is not returned for example the airport it's never going to be return, so the ancestral landowner family keeps receiving money let's say the land total value was sold straight right to the airport was 100 bucks you keep receiving money from the trust it adds 90 and then 100, okay. If you sold this to the airport you are fully satisfied got the full amount next year it goes to 101 and it keeps on going and you're never going to get the land back pretty soon

they'll be paid to, three, four, five, whatever times over because I never going to get the land back and then all of a sudden they put a lot of money into their bank account worth move way more than the property. The other part that I want to speak about the question about what Mr. Sablan said who owns the airport? Is it the government of Guam? I don't think so I think the FAA is still strongly involved in their which means it's really not returned to the government of Guam they controlled our whole airport than therefore these claimants the Tiyan landowner claimants (inaudible).

Attorney Nicolas Toft: I think this is why we need to go to the legislature the defining of extinguishment and getting something from them in the law saying when the claim ends because the whole purpose of it is to provide just compensation which is another one we need to have them define because according to attorney Finney memo, which I agree with, it is outside our authority to deal with, the legislature needs to come up with the mechanism for calculating, how to value the land, and the mechanism for the extinguishment of the claim and then the board executes that.

Commissioner Antonio Sablan: you talk about appraisal, man we are going to be at the drawing board forever because we are never going to resolve it even the John Bohn land claims it was argued about appraisals they threw their hands up and they'll say I settle.

Commissioner Ronald Ecklavea: if you recall I brought in a bunch of real estate appraisers remember we have public testimony and the nightmare and the practical impossibility of appraising and airport and the runway there is practically no way for them to appraising, they can't appraise it. So how do you get a value for something that they can't extinguish there is no way to appraise it and that's the problem we have and remember they are limited qualified appraisers they only mention one person that might be and that guy was here and he was like.

Commissioner Antonio Sablan: there are 44,000 acres of land that are still in the military hands and there are 1000 acres of land in the land bank and no matter what you do you're never going to come out.

Commissioner Ronald Ecklavea: that is the reason why I proposed a perpetual payment based on the percentage we make because we don't have a value and this is a way.....

Commissioner Maria Cruz: in the AG said it was wrong.

Commissioner Ronald Ecklavea: The AG is admitting that there is a flaw in the law we don't have the mechanism to follow that law, the ways and means to fulfill that law so I think our legal counsel is saying we have to go to the legislature and define the extinguishment and just compensation.

Commissioner Antonio Sablan: I was one of the original board members of the ancestral land commission and it was during the time when we were lobbying to the legislature and maybe it wasn't too smart on our part to not pinpoint on that extinguishment and just compensation and stuff like that we accepted what the legislature passed at the time as a startup mechanism, it doesn't mean that we cannot change this law and I think that we should all come together as a think tank and go to the legislature with what we really need how do we approach this, how do we be fair to everybody the airport and the people receiving income for life and ignore everybody else my conflict of interest of course is my family owns Anderson Air Force Base 21 square million meters but yet how do you compensate, what is the fair market value, that we are talking

about. But it is that place that is defending you every day how do you put a price tag on that is it at the time it was taken, let me tell you at the time it was taken it was already an operational airfield much more than Tiyan so how do you put a price tag on that and what is fair just ignore those families that owned those properties and not to mention naval magazine and other places.

Chairman Anthony Ada: going back to 25 – 45 if you read from pages 22 to 26 you will see it is pretty clear on 24 it says “it is in the public interest, and sound public policy for every assistance to be provided by the government of Guam to these line claimants who have suffered hardships so long, through no fault of their own, by the loss of their property to assist the military forces of the United States for the benefit of Guam.” And then further down “as to the second class of landowners *I lehislaturan Guahan* desires to extend the same provisions afforded the first class of landowners, as well as establish a process for the recognition and protection of future claims, accepting the authoritative arguments set forth in the US Public Law 103 – 339.” So you see it’s there, we just have to go to the legislature put it out and put it in the code because by the time this public law was codified into the Guam code a lot of this stuff was left out. What I am doing is going through the letter and we determined that the impact statement that’s Dir. Borja, the rules contradict the law so 21 GCA 80104 (e) and 80103.303 (b) based on this letter this is what we are going to ask the legislature, gives them a copy of this letter, And and the definition of a land bank beneficiary is ambiguous, that’s the legislature again. 25 – 45, I know what beneficiary would be a beneficiary would be and also cited by a former board member of ancestral lands Mr. Joe Borja he said for him his opinion we tend to agree as long as that property is not in the hands of that original landowner they should be compensated whether it is in the hands of the local government or the federal government. Remember at one point in time they were one in the same it was a naval government of Guam that did all this and then the successor government and this was in a discussion between me and former congressman Robert Underwood. Who is now the president of the University of Guam, when he was a congressman he says you cannot go through the federal government for this you have to go through the successor government the successor government assumes those responsibilities. So those are the kind of things that went around the table now by a vote of the majority we sent the rules down we just sent it and now we got the answer and so now the next step is it’s got to go through the legislature. Okay, statutory guidance the distribution of the land bank fund so what we need to do is draft up a transmittal memo of some sort with a copy of this letter and send it down and outline the points that assistant AG Finney put out assistant AG Toft agrees so I guess, can we get your help in drafting a transmittal memo so that they can correct the stuff in the law and then that is the conclusion of these rules and regulation. When did we forward this to be reviewed? About a year ago. Hopefully it’ll go faster now it has been reviewed now for legality and form and these are the responses and now the next step is we already summarize who is going to do what and let’s send it to the legislature and we checked the economic impact statement from.

Commissioner Ronald Ecklavea: so they need to clarify three things.

Chairman Anthony Ada: well there is two areas of the code that contradict each other and there was a question of what just compensation means, what is extinguishment mean, and the definition of who is a beneficiary.

Vice Chair Ronald Lagaña: make it a motion and let’s move on.

Commissioner Ronald Ecklavea: so can you clarify the AG’s opinion did they put down who qualifies? It’s in there.

(in these following statement Chairman Ada reads from the memorandum from the office of the Atty. Gen. subject proposed rules and regulations for the land bank program dated April 26, 2017 received by DLM on April 28, 2017 as indicated quotes).

Chairman Anthony Ada: statutory definition of beneficiary is ambiguous there is a whole page on this. Since there is a question and since we are being recorded I will go ahead and read it out "the rules define a beneficiary as a claimant who the commission determines is entitled to just compensation as a deposed landowner as those whose lands have been declared excess by the federal government, and those whose lands have not been declared excess and may or may not likely be declared excess by the United States in the future" we just went over this. Now the rule 80103.30 (a) (1) "as is technical aside, the definition should read, a claimant who the commission determines is entitled to just compensation as a deposed landowner whose lands have been declared excess by the federal government, or whose lands have not been declared excess may or may not likely be declared excess by the United States in the future. This definition is arguably consistent with 21 GCA 80102 but not with 21 GCA 80104 (e)." Are you looking at a copy of that through your email? I know everybody got a copy the assistant AG is already putting the answer that should be and how it should be termed now the inconsistency with 80104 (e) "the commission is required to take title as trustees to certain non ancestral lands on behalf of ancestral lands who, by virtue of continued government or public benefit use cannot regain possession or title to their ancestral lands." They just use the word government they didn't say federal government or local government. "Public benefit use cannot regain possession or title to their ancestral lands 21 GCA 80104 (e) the reference to government here, without any other qualifier, has to be interpreted to mean the government of Guam. 1 GCA 713 ("government means the government of Guam and all of its branches").

So what is the definition of government so " in 21 GCA 80102, it is recognized that a process does not now exist to recognize the ancestral land rights of landowners whose properties have not been declared surplus and may not ever be declared surplus by the military in the future. Section 80102 also provides that the exercise of these ancestral property rights claims shall be applicable to lands already declared excess by the federal government and shall also be applicable to all future declaration of excess lands either by the United States government or by the government of Guam.

"This language in 80102, could be interpreted to mean that the rules that apply to current claims will also be applicable in the future for claims that may arise if additional land is declared excess. Alternatively read alone without regard to the rest of the chapter, it could mean that an ancestral landowner is entitled to the statutory remedies to the commission now even for land that has not yet been declared excess the commission adopted the second interpretation in defining who is to be included as a beneficiary of the income from the land bank trust fund."

"The distinction between these readings is significant, particularly when considering that the rules provide for payments from the land bank trust fund to be based on the percentage of the claimant's land to the total of all the claimed lands the total of all the claimed ancestral lands of course rises dramatically of land that has not been returned to the government of Guam is included."

"The commission is entitled to deference to its reasonable interpretation of an ambiguous statute. *While Memorial Hospital authority V. Civil Service Commission, Guam*. Since the commission's definition of a beneficiary is based on a logical construction of 21 GCA 80102, the commission would be within its authority to define a beneficiary to include ancestral landowners whose land is

still in use by the federal government, absent other contrary statutory provisions. As discussed above, however, section 80104 (E) restricts the land bank beneficiary to those ancestral land owners whose land is used for public benefit or by the government of Guam.” That’s Commissioner Cruz’s position not the federal government but only the government of Guam but it is in conflict with 80103.3

Commissioner Ronald Ecklavea: what you just read prior to that it says that we are within.....

Chairman Anthony Ada: let me just finish the paragraph. “Because it is a “cardinal principle of statutory construction that courts must give effect, if possible, to every clause and word of the statute,” Williams versus Taylor, 2000, the provisions must be read so that they do not contradict each other, if possible. And ancestral landowner, therefore, cannot become a beneficiary of the land bank unless his land was returned to Guam by the federal government and is now being used for a public benefit or by the government of Guam. Any other reading would result in a contradiction between section 80102 and section 80104 (E). This leaves the commission however, with no means of effectuating the administrative process with respect to the ancestral property right of those whose ancestral land “may not ever be declared surplus by the military in the future” as described in section 80102.” So we need to go to the legislature to clarify that in my thinking as they go back to the original law 25 – 45 and they’re going to say that’s what we wanted to do was to take care of everybody.

Commissioner Maria Cruz: so Mr. chair, we can check with our assistant AG if he can do that take it to the legislature and give us more guidance on what the law intends so that we can proceed with the definition of compensation also I really don’t know if the AG needs a written request to proceed.

Chairman Anthony Ada: yeah, we said that earlier director Borja will take care of the economic impact statement, the draft rules will be sent to the legislature all of this will be sent to the legislature and like I said earlier, our Assistant Attorney General, Toft, will.....

Commissioner Maria Cruz: so you don’t need a transmittal?

Attorney Nicolas Toft: I will prepare a transmittal letter and I will include attorney Finney’s analysis of it.

Chairman Anthony Ada: and because this is addressed as somewhere in there has to be our signature.

Attorney Nicolas Toft: I will check with Mike.

Vice Chair Ronald Laguaña: Mr. chair, do we have to put that into motion?

Chairman Anthony Ada: this is an ongoing thing, I would say just to be safe let’s put it in a motion.

Commissioner Ronald Ecklavea: yes, because it was returned to us the AG sent it back down to the commission.

Chairman Anthony Ada: everyone review this letter because the next thing that's going to happen is the legislature is going to say okay let's hear from the board. Who's going to make the motion?

Vice Chair Ronald Laguaña: once we move it and then we seconded we can then discuss it. Once it has been put into writing, I agree, the Chair will review it and sign off on it and then send it out this has been already delayed, they have been hammering on this, so let's move on. So Mr. Chair, I move that based on the attorney general's opinion on the amendments for the rules and regulations that it be sent down to the legislature for ratification and amendment to meet the guidelines of the recommendations our Atty. Gen. will draft that transmittal.

Chairman Anthony Ada: there is a motion on the floor is there a second?

Commissioner Antonio Sablan: I seconded.

Chairman Anthony Ada: it has been seconded. Discussion, any additional discussions?

Commissioner Ronald Ecklavea: So basically that's going to have the legislature clarify those points and also in the AG's opinion there it shows that we are within bounds to do what we did that we are still within it to include everyone.

(Inaudible)

Vice Chair Ronald Laguaña: there were some portions there that we had no jurisdictions over.

Commissioner Ronald Ecklavea: That's why we are taking it back to the legislature to have them clarify what is ambiguous if they clarify it then we don't have to deal with the problem.

(Inaudible)

Commissioner Maria Cruz: based on the market value at the time you know it could be current or it could be it doesn't matter it should be what we as commissioners decide what is fair.

(All commissioners responding to her statement at the same time, in audible).

Chairman Anthony Ada: well, that definition needs to be clarified not by us .

Commissioner Antonio Sablan: after our legal counsel will have it back to us so that we can review it.

Chairman Anthony Ada: do you guys want to see it one more time? I tell you what, attorney Toft when you're ready will have it in a meeting will pass it around so everybody can see it.

Vice Chair Ronald Laguaña: we will review it at our next meeting and I motion to ratify to move it.

Attorney Nicolas Toft: shall I prepared for the Chairman's signature or everybody's signature?

Vice Chair Ronald Laguaña: I think everybody.

Commissioner Antonio Sablan: just send us an email so that we can review it.

Vice Chair Ronald Laguaña: we will review it one last time.

Chairman Anthony Ada: so make it for everybody to sign.

Attorney Nicolas Toft: okay.

Chairman Anthony Ada: I'd like to move on the directors report will is not available because the director has jury duty but in his place.

Vice Chair Ronald Laguaña: we did not vote on it.

Chairman Anthony Ada: any further discussion?

No response

Chairman Anthony Ada: all those in favor say "AYE".

All commissioners: "AYE".

Chairman Anthony Ada: all those oppose?

No response

Chairman Anthony Ada: thank you attorney Toft. Now in place of the Directors report we are going to put in public comment.

Vice Chair Ronald Laguaña: Deputy, I think public comments should always be on the agenda and limited to five minutes and we should put that at the beginning of our agenda it should be roll call, and then approval of minutes, and then public comments.

Commissioner Ronald Ecklavea: we should put it at the end.

Chairman Anthony Ada: The new open government law when that was question public comment was to abide to the topic we are discussing if somebody wants to make a comment that is not related to anything discussed they have five minutes because you're not on the agenda.

Commissioner Anita Orlino: At the last meeting you mentioned to move the public comment to the end of the meeting that's my understanding of what you said Mr. Chairperson.

Chairman Anthony Ada: based on what I found and I will send out the research again to all of you. So if you have something to say about a topic will bring you back in or do we just ask them do you have something more to say or do we say is there any other comments on that at the time that it's being discussed?

Vice Chair Ronald Laguaña: Mr. Chairman, I think we should have public comments they should bring in whatever they have and then will bring it into our next meeting on the agenda and then we can take action.

Chairman Anthony Ada: but there are two types of public comment, one, is the discussion after every topic for example GPA today, they're supposed to be an opportunity for anybody else out there to come and say something about it to us. During that kind of public comment and when they're finished talking to we call for other people to add to that? Or do we tell them to wait until the very end?

Commissioner Anita Orlino: I think it's better because it's fresh.

Chairman Anthony Ada: for that type of public comment because the other kind is with somebody shows up and we weren't expecting him to show up is he allowed to add something in five minutes and if it warrants being on the agenda we will place it on the agenda.

Deputy Director David Camacho: are you going to put in the public comments or are you going to put it on the agenda?

Chairman Anthony Ada: I guess we can put it at the end, unscheduled comments.

Deputy Director David Camacho: or, it could be up to the chairperson to ask if there is a public comment.

Attorney Nicolas Toft: I think it's discretionary.

Vice Chair Ronald Laguaña: one more thing, I think, Mr. Chair, that through the Robert rules of order we need to approve the agenda prior to every meeting and any agenda items that are not on the agenda cannot be discussed so from now on Mr. Chair, you should get transmitted a copy of the agenda several days before the meeting and then you shoot it out to us you ask if there's anything else that needs to be put in, you put it in with your approval and then we approve on it, and that will be our agenda for that day.

Chairman Anthony Ada: well, I think the practice now is Karen sends it to all of us and ask for any input.

Vice Chair Ronald Laguaña: I didn't know that GPA was going to be on the agenda today.

Chairman Anthony Ada: Karen, was this agenda sent out?

Karen Charfauros: I sent it to you the day after the last meeting.

Chairman Anthony Ada: only me?

Karen Charfauros: yes.

Chairman Anthony Ada: I am sorry.

Deputy Director David Camacho: at the last meeting when you were not here it was suggested that you, the chairman, do the agenda and then the following meetings you did not come out with any agenda so then we did it again, so you have to come up with the agenda.

Chairman Anthony Ada: okay.

Deputy Director David Camacho: because we expect you to come up with the agenda.

Chairman Anthony Ada: okay. I accept that responsibility. The agenda will be reviewed on the day of every meeting, okay nevermind I will do the agenda.

Vice Chair Ronald Laguaña: do it before the meeting because we might want to put something into the agenda.

(Inaudible).

Chairman Anthony Ada: if you want something placed on the agenda send it to me.

Commissioner Antonio Sablan: we should have a public comment at the beginning of the meeting for the fact that there will be some issues we will be discussing on that meeting and we would like input from the public before we start making decisions I support that idea. I also like the public comments at the end of the meeting so ideas for the next meeting can be brought up.

Chairman Anthony Ada: there are two kinds of public comment, at the end of somebody's presentation we will ask if somebody would like to make a comment, that's one kind of public comment.

Vice Chair Ronald Laguaña: this is important, it should be first to call to order, number two, roll call, number three is the approval of the agenda, we need to approve the agenda first in a motion, and then we move on to the approval of the minutes and then if you want to put public comment there or whatever but we need to approve the agenda can't move forward without approving the agenda.

Chairman Anthony Ada: okay, according to Roberts rules.

Joey Leon Guerrero: isn't the agenda already approved since we sent notice out to the public?

Deputy Director David Camacho: that's what I was going to say.

Chairman Anthony Ada: otherwise if we are going to approve it at a meeting we may as well have Karen just put it together.

Commissioner Ronald Ecklavea: I think he's talking about the next meeting.

Vice Chair Ronald Laguaña: No, that's the announcement. We don't announce the agenda in the public.

Chairman Anthony Ada: we are guided by Roberts rules we will clarify that.

Vice Chair Ronald Laguaña: The FOIA is the public announcement that's five days and it does not include an agenda.

Deputy Director David Camacho: the agenda we send out to the media into the legislature.

Vice Chair Ronald Laguaña: the freedom of information act, open government law allows you five days to publicize the meeting.

Deputy Director David Camacho: what I'm talking about is the agenda is sent out to the legislature and to the media prior to a meeting.

Commissioner Antonio Sablan: that's why people from the legislature come to the meetings.

Chairman Anthony Ada: yes, the media and the legislature in certain entities want to know what the meeting is going to be about. Okay we move now to public comment.

PUBLIC COMMENT

Mr. Francis Taitano: my name is Francis Taitano I appear to you guys last year I didn't want to come but because of circumstances I felt moved to come here. Just for review last year you entertained a complaint by myself and others regarding the closing of Pagat and certain businesses in the obstruct of it and how certain businesses and the director sent letter in response to notices that were placed on cars that was rescinded until the matter was concluded the closure was officially on paper signed up by the mayor of Yigo to our own understanding was a friend and there was a complaint and you said that you should have done that. You have the authority and Chamorro land trust because those are the people in control unfortunately, ladies and gentlemen in the recent past the mayor saw fit to send an email to our company and the Guam visitors Bureau saying the cave was closed. You said no and he sent an email I am assuming that you did not hear this he didn't go to you and I'm surprised the reason behind it may be slightly different but the concern for the trash and health reasons and safety and he in this instance he included in conjunction with the Department of Parks and Recreation so instead of coming to you he went to Parks and recreation I have a feeling why he did that because the he also said you all should work with parks because there is an historical site there. So that's why he went to Parks and Recs and not to you and Chamorro land trust and when he sent the email, as I understand it, to GVB, GVB called him and Parks and Recreation now acting Bill Reyes and said hey guys this is not right you do not have the authority. I didn't know this I found out subsequently I went to the mayor and he says Francis this is the thing and I said okay.....

Chairman Anthony Ada: wait a minute, you said GVB said you don't have the authority?

Mr. Francis Taitano: meaning parks and recreation's did not have the authority. Because they received a copy of that email. So, I went to the mayor first I gave him that courtesy he didn't want to come to you guys then I asked him who it parks then and he mentioned Reyes is the acting director, so then I went immediately and I met with Bill and Bill says Francis you're the guy? He said I got a call from Marissa of GVB and she talked to me and the others and we don't have the authority so I said oh good, It's resolved, no problem. Unfortunately, in that first instance and now again in the second one word gets out in the tourist community and so booking agencies even Guam television the one that does the Japanese stuff, and some advertising companies heard of this and so they are calling us and asking if it is closed or not as was last year rescinding that now I am coming, not to get to these guys, but can I get a letter from the director again or from this body saying that email that was generated from the mayor's office has no validity, has no power and so in my hand I can give that to the booking companies and say here, one government agency is saying that this is close does not have effect. That's all I'm looking for something in writing to say were going there we are not blocked were fine and that is affecting the business, so that's what I'm hoping for today first to let you know that this is happened a second time and that the two bodies were told by GVB that they did not have the power to do this so they acquiesced to it I guess but it got out into the tourism community and now we have to deal with that I just

need something in writing that says that email is now overwritten, to disregarded, as we had the director of land management to rescind it in a similar nature.

Chairman Anthony Ada: whose email is that?

Mr. Francis Taitano: This is the email from the mayor of Yigo and he says "in conjunction with the Department of Parks and Recreation's the Yigo mayor's office please be advised Pagat cave is close effective immediately due to safety and health concerns.

Chairman Anthony Ada: who is the email addressed to?

Mr. Francis Taitano: to us, and to frontier tours and island journey, the companies that go there.

Chairman Anthony Ada: are those the only two companies that go there?

Mr. Francis Taitano: no, they just didn't have the email of the other one, I have no proof of this but what caused the problem is a private company, our competitor, going to a friend it is not showing that they are tied to it but I believe there is a tie because coincidentally the timing is to they pulled out and saying where out because it's close and nobody should be going there this is how I see it but there is nothing in writing. When I spoke to Mr. Reyes I said we are in an agreement I said okay because of this problem with the tourism industry I would like for you to generate a letter and you don't even have to write to me can you just concur in my letter list what you told me, I met with Bill and he says Francis there are three facts: first, the mayor is the jurisdiction in that area as far as the village yes I agree, Guam and ancestral land and Chamorro land trust are the authority and Parks and Recreation has no authority I said okay I know you have a vested interest but no authority okay. He gave me those points I listed them in my letter for his concurrence but unfortunately he was reluctant to sign.

Chairman Anthony Ada: the mayor is Rudy Mantanane and Parks and Recreation Dir. is Bill Reyes?

Mr. Francis Taitano: yes, Bill Reyes is the acting director.

Chairman Anthony Ada: and who at GVB did you talk to?

Mr. Francis Taitano: Marissa, called him and the mayor that is my understanding from her staff.

Chairman Anthony Ada: who is the staff? Her last name?

Mr. Francis Taitano: who?

Chairman Anthony Ada: Marissa?

Mr. Francis Taitano: I don't know, Leann, who does the badges for the guides.

Deputy Director David Camacho: I don't think we have jurisdiction over that Pagat cave is under the jurisdiction of Chamorro land trust we are trying to identify that part of the cave that is a part of historical.

Mr. Francis Taitano: yes, I agree sir.

Chairman Anthony Ada: I did talk to Bill about all those things the bottom line is Parks and Recreation oversees the cave

Deputy Director David Camacho: you have to pass through ancestral lands to get to Pagat Cave in the ancestral the Pagat cave is open.

Mr. Francis Taitano: the cave is closed temporarily.

Deputy Director David Camacho: for the reason for safety and all those reasons.

Chairman Anthony Ada: the way to get to the cave is through ancestral property.

Deputy Director David Camacho: ancestral and then land trust.

Chairman Anthony Ada: down the hill is land trust on the top of the hill is ancestral, so where are the trash?

Mr. Francis Taitano: we always pick up, it's in the cave but we always pick up and we tell people don't use candles use flashlights so you don't have wax and stuff but it has always been that case sir, but I feel that the private entity that pulled out was hoping that we would be by him, last year he was saying we couldn't because we didn't have this insurance policy now the company, our competitor, now this is all hearsay okay, this is not a fact but they pulled out at that same time and they went back to the company and said were out of there and that company called us saying is this true? So I am thinking the timing of them pulling out is too coincidental with the mayors pulling out at the same time but that's just my opinion.

Chairman Anthony Ada: who is pulling out?

Mr. Francis Taitano: the company that is friends, our competitor, who caused the problem last year you spoke to them here last year. I'm thinking it is in hope to close us out because they have other places as we do I think that's the ultimate intent but that's just my thinking.

Chairman Anthony Ada: I don't want to get into this.

Commissioner Antonio Sablan: as the deputy director says the letter from the mayor says that Pagat cave is closed we have nothing to do with Pagat Cave so I think you should go to Chamorro land trusts.

Mr. Francis Taitano: you are right, the only reason why I came is because this just happened and I wanted to meet with the mayor and he said he was a jury duty.

Chairman Anthony Ada: if you are not bringing the trash down there who is bringing it?

Mr. Francis Taitano: everyone, sir. The military both big bases hike down there.

Chairman Anthony Ada: what's the mayors later closed to tour operators and everybody else?

Mr. Francis Taitano: just the cave there was a mesh there but it was removed so it was never physically obstructed it was just there for a window of time it's not there anymore because I called the mayor and I told him that somebody moved it and then he did not go back and reestablish it.

Chairman Anthony Ada: you sound to me like you travel a lot, I travel a lot every place that I go there's a giant..... where Jesse James lived in a cave in Missouri there's a walkway you can see the cave but you cannot go in and maybe that's what happened up here in Pagat and you just have to work with preservation, there's a line where you just walked by but you can't go in. Anyways, you need to formalize a letter that says that we don't agree that the mayors going to close it.

Mr. Francis Taitano: well the director spoke on behalf of you guys and Chamorro land trust but I was hoping to see him but he has jury duty and that's why I came here and the next one will be Chamorro land trust to see if they're going to generated it or is the director.

Deputy Director David Camacho: we do have her respond for that.

Chairman Anthony Ada: regarding ancestral lands I just keep thinking the highest and best use.

Vice Chair Ronald Laguaña: I thought we had a marshal down there, Danny Jackson, I thought he was cleaning the place.

(Inaudible)

Mr. Francis Taitano: first of all this is what I told the mayor I said mayor you can pee there all day and then tomorrow it's crystal clear because it's moving on because it changes with the type.

Deputy Director David Camacho: it's moving toward the aquifer.

Mr. Francis Taitano: but what I'm saying Sir is it changes and you can see as the tide goes in and out.

Chairman Anthony Ada: anyway, make an appointment to see the director or the Deputy Director of land management, Dave do you also sit in the Chamorro land trust?

Deputy Director David Camacho: no, Mike does.

Chairman Anthony Ada: okay we heard you out.

Mr. Francis Taitano: yes, I'm done.

II. Adjournment

Commissioner Ronald Ecklavea: I motion to adjourn

Antonio Sablan: I second.

Chairman Anthony Ada: All those in favor say "Aye".

All Commissioners present: "Aye".

Chairman Anthony Ada: We are adjourned.

Meeting adjourned at 4:50 pm

Transcribed by: Karen N. Charfauros: Karen N. Charfauros

Approved by Board motion in meeting of: June 14, 2017

David V. Camacho, Deputy Director: David V. Camacho Date: 6/14/17

Anthony J.P. Ada, Chairperson: Anthony J.P. Ada June 14, 2017